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10 Attorneys for Defendant APPLE INC.

11 UNITED STATES DISTRICT COURT

12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 OAKLAND DIVISION

14 EPIC GAMES, INC.,

15 Plaintiff, Counter-
16 defendant

17 v.

18 APPLE INC.,

19 Defendant,
20 Counterclaimant.

21 Case No. 4:20-cv-05640-YGR

22 **DEFENDANT APPLE INC.'S
23 ADMINISTRATIVE MOTION TO SEAL
24 OBJECTIONS TO EXPERT TESTIMONY**

Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Defendant Apple Inc. (“Apple”) moves the Court to seal select portions of its Objections to Expert Testimony and supporting exhibits. Certain statements in Apple’s Objections to Expert Testimony and the supporting exhibits have been designated by Epic Games, Inc. (“Epic”) as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Although Apple does not believe the information is sealable, Apple is filing this provisional motion to seal to give Epic an opportunity to support the sealing of the statements. Unredacted, highlighted versions of the documents are attached hereto.

When a party seeks to seal records for use at trial, there is a “strong presumption in favor of access” that can be overcome only by “compelling reasons.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quotation marks omitted). The party seeking to seal the document or proceedings must “articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure.” *Id.* at 1178–79 (alteration, citation, and quotation marks omitted). “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing court records exist when such ‘court files might have become a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)).

This motion is filed pursuant to Local Rule 79-5(e), Epic has designated the information “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Apple is filing this provisional motion to seal to permit Epic the opportunity to file a declaration in support of sealing the document, should it choose to do so.

Dated: April 28, 2021

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Mark A. Perry
Mark A. Perry

Attorney for Defendant Apple Inc.